

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2003-18-C - ORDER NO. 2003-322

MAY 14, 2003

IN RE:	Application of Alticomm, Inc. for a	)	ORDER GRANTING
	Certificate of Public Convenience and	)	CERTIFICATE
	Necessity to Provide Interexchange and Local	)	
	Exchange Telecommunications Services and	)	
	for Flexible Regulation of its Local Exchange	)	
	Services.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Alticomm, Inc. (Alticomm or the Company or the Applicant) for authority to provide resold local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to Section 253 of the Telecommunications Act of 1996, S.C. Code Ann. Section 58-9-280 (Supp. 2002), and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and

provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Thereafter, counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Alticomm provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Alticomm agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on April 24, 2003, at 11:30 a.m. in the Commission's Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. Alticomm was represented by John J. Pringle, Jr., Esquire. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

Mr. James Cornblatt, the Company's Director of Regulatory Affairs, appeared and testified on behalf of Alticomm. Mr. Cornblatt is responsible for overseeing all regulatory matters and compliance matters for the Company, as well as acting as liaison

with applicable governmental agencies. The sole witness' testimony reveals that he worked for fifteen years in private practice, including business and regulatory matters as a partner in Levoff & Cornblatt. After five years with General Cinema, Mr. Cornblatt joined ServiSense as Regulatory Director. Mr. Cornblatt has a Bachelor of Arts, cum laude, from the University of Pennsylvania and Juris Doctor from Boston College Law School.

Mr. Cornblatt presented evidence describing the Company's technical, managerial, and financial fitness to provide local exchange and resold interexchange telecommunications services in South Carolina. According to the Application, Alticomm is a telecommunications company which has offered competitive interexchange and local services to business and residential customers in Massachusetts and Rhode Island since 1999. The Company is headquartered in Canton, Massachusetts. Alticomm is a Massachusetts corporation authorized to transact business in South Carolina. The Company is certified with the South Carolina Secretary of State as a foreign corporation. Alticomm was organized as Eastern Telephone, Inc. on March 27, 1998. The Company's name was change to Alticomm, Inc. in August 2002. Alticomm seeks a waiver of Regulation 103-610 so that the Company can keep its books and records at its offices in Massachusetts. Mr. Cornblatt testified that, upon request, the Company will provide such books and records to the Commission and its Staff on an expedited basis and at the Company's expense.

Alticomm seeks authority to operate as a reseller of intrastate interexchange services and competitive local exchange telecommunications services to residential and

business customers. According to the testimony, the Company has not installed, nor does it intend to install any transmission facilities or plant in the State of South Carolina. Intrastate service is offered in conjunction with interstate service. Mr. Cornblatt testified that Alticomm's underlying carrier for local exchange services will be BellSouth Telecommunications, Inc. Further, the Company will resell the interexchange services of Qwest, Global Crossing or other certificated carriers. According to Mr. Cornblatt, the underlying carriers provide all of the facilities over which the Company's long distance and local exchange services are carried. Alticomm proposes to resell interexchange telecommunications services, including travel service available through toll-free access.

Mr. Cornblatt also testified that Alticomm will bill for its services directly. The Company utilizes a nationwide toll-free number, 866-282-4200, for customer service. Customers may call that number twenty-four hours a day, seven days a week. Further, this toll-free number is printed on customer billing statements.

With regard to the managerial resources of Alticomm, Mr. Allan Stern is the Company's Chief Executive Officer. Mr. Stern served previously as Vice President of Research and Development for MediaOne (now AT&T Broadband) and as founding Vice President and General Manager of RCN, Inc. Additionally, Mr. Stern was the Chief Information Officer for the City of Boston and has served as lead technologist and consultant for a number of companies, including Millennium Pharmaceuticals, The Weather Channel, Teradyne, John Hancock Financial Services, the Thomson Group and Reed/Elsevier. Mr. Paul Barrett is the Company's Senior Vice President, Business Development. Mr. Barrett was founder and managing director of National Energy

Choice, a company that represents the largest energy users in the northeast. Further, Mr. Barrett was the Director of the Boston Redevelopment Authority and Director of Economic Development, as well as the Port Authority for the State of Rhode Island. The President of the Company is Mr. James Vanecko. Mr. Vanecko was previously Chief Executive Officer of Advanced Interactive Marketing (AIM). Before beginning AIM, Mr. Vanecko was in charge of marketing for John Hancock Financial Services for seven years. Mr. Vanecko, according to the Application, has taught in the graduate schools of the University of Illinois (Chicago), Brown University, and Harvard University. The other management of Alticomm includes the following personnel: Alexander Bok, Vice President and General Counsel; William Crum, Vice President of Finance; Kathy Hennessy, Vice President of Operations; and Mr. Cornblatt.

Mr. Cornblatt also spoke to the financial resources of the Company. According to the testimony, Alticomm has a solid financial base from which to begin operation as a provider of telecommunications. Updated financial statements were entered into evidence at the hearing. These updated financial statements are dated January 6, 2003. As of September 2002, the Company's total current assets were \$1,910,739. Of the total current assets, \$574,645 was cash.

Pursuant to the general regulatory authority of the Commission, the Company requests permission to adopt the flexible rate structure for its local exchange service offerings similar to that approved by Order Number 98-165 in Docket Number 97-467-C. Specifically, Alticomm requests that the Commission adopt for Alticomm's local exchange services a competitive rate structure incorporating maximum rate levels with

the flexibility for rate adjustment below the maximum rate levels. Additionally, Alticomm requests that its local exchange service tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of such filings. At the discretion of the Commission, such filings would be suspended pending further order of the Commission and any such filings would be subject to the same monitoring process as is applied to other similarly situated carriers.

Alticomm requests that it be exempt from any record-keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The Company asserts that because it utilizes the Generally Accepted Accounting Principles (GAAP), the Commission will have a reliable means by which to evaluate operations. Therefore, the Company requests to be exempt from any USOA requirements of the Commission. Next, the Company does not intend to publish telephone directories. The Company will make arrangements with the incumbent local exchange carriers (ILECs) whereby the names of its customers will be included in the directories published by the ILEC. These directories will be distributed to the Company's customers. Alticomm asserts that it would be an unnecessary burden on the Company to require that it publish and distribute its own directory to all customers located within each exchange area, particularly because nearly all of these customers will be customers of the ILECs. Therefore, Alticomm asks that the Commission waive S.C. Code Ann. Regs. 103-631. Alticomm will contract with the incumbent local exchange carriers, to ensure that the Company's customers are included in the applicable directory. Finally, Alticomm requests waivers of any reporting requirements which, although

applicable to ILECs, are not applicable to competitive providers such as Alticomm because such requirements: (1) are not consistent with the demands of the competitive market; or (2) they constitute an undue burden on a competitive provider, thereby requiring an inefficient allocation of its limited resources.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Alticomm is organized as a corporation under the laws of the State of Massachusetts and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Alticomm is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Alticomm has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that Alticomm's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2002).

5. The Commission finds that Alticomm will support universally available telephone service at affordable rates.

6. The Commission finds that Alticomm will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Alticomm “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2002).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Alticomm to provide competitive intrastate resold non-rural local exchange service in South Carolina. The terms of the Stipulation between Alticomm and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, Alticomm is granted authority to provide resold intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. Alticomm shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Alticomm’s local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Alticomm’s competitive intrastate local exchange services a rate structure incorporating



maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Alticom's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. With regard to the interexchange service offerings of Alticom, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Alticom shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Alticom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's

subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

5. If it has not already done so by the date of issuance of this Order, Alticomm shall file its revised interexchange long distance tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. Alticomm is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's offering of interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Alticomm shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Alticomm changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Alticomm shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47

CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph four of the Stipulation and Appendix B approved by Order No. 93-462.

10. Alticomm shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of the form which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Alticomm shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms) to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. Alticomm shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. We hereby grant the Company's request for a waiver of S.C. Code Ann. Regs. 103-610. The Company is granted permission to keep its books and records in Canton, Massachusetts. Upon request by the Commission or its Staff, Alticomm will provide these books and records to the Commission expeditiously and at the Company's cost. Next, we grant the Company's request to maintain its books and records in conformance with GAAP. We also grant the Company's request for a waiver of S.C. Code Ann. Regs. 103-631. The Company will contract with the incumbent local exchange carriers, to ensure that the Company's customers are included in the applicable directory. We deny the Company's request for a waiver of any reporting requirements which although applicable to ILECs are not applicable to competitive providers because this request lacks specificity. Alticomm can petition the Commission for a waiver of specific regulations in the future should the Company determine the need to do so. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In

recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Alticomm to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Division of Chief Information Officer of the South Carolina Budget and Control Board. By this Order and prior to providing voice or dial-tone services within South Carolina, Alticomm shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

15. Alticomm shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Alticomm shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The Company shall file gross receipts reports with the Commission on or before August 31<sup>st</sup> of each year. The “Annual Report for Competitive Local Exchange Carriers” form can be located at the Commission’s website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form shall be utilized by the Company to file annual financial information with the Commission. Additionally, pursuant to the

Commission's regulations, the Company shall file a "CLEC Service Quality Quarterly Report" with the Commission. The proper form for this report can be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

16. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms).

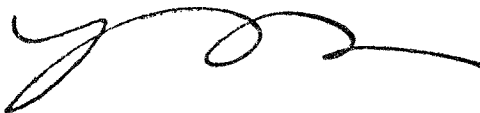
MAY 14, 2003

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17. This Order shall remain in full force and effect until further Order of the Commission.

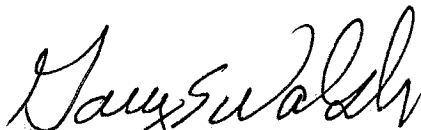
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



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Gary E. Walsh, Executive Director

(SEAL)

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

Docket No. 2003-18-C

Re: Application of Alticomm, Inc. for a )  
Certificate of Public Convenience and )  
Necessity to Provide Local Exchange and )  
Interexchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Alticomm, Inc. ("Alticomm") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Alticomm's Application. SCTC and Alticomm stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Alticomm, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Alticomm stipulates and agrees that any Certificate which may be granted will authorize Alticomm to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Alticomm stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Alticomm stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Alticomm provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice



period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Alticomm acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Alticomm stipulates and agrees that, if Alticomm gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Alticomm will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Alticomm acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

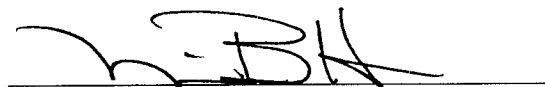
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Alticomm, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Alticomm agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

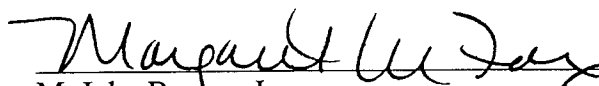
9. Alticomm hereby amends its application and its prefled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 6<sup>th</sup> day of March,  
2003.

Alticomm, Inc.:



South Carolina Telephone Coalition:



M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

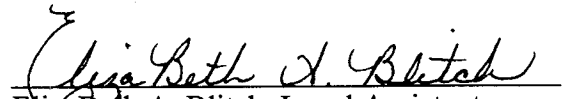
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\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Monica Borne Haab, Esquire  
Norwalsky, Bronston and Gothard  
3500 North Causeway Boulevard  
Suite 1442  
Metairie, Louisiana 7002

  
ElizaBeth A. Blich, Legal Assistant  
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Post Office Box 11390  
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(803) 799-9800

March 25, 2003

Columbia, South Carolina